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LETTER DATED 2 JULY 1993 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit herewith the letter dated 2 July 1993 of H.E. Mr. Vladislav Jovanovic, Deputy Prime Minister and Minister for Foreign Affairs of the Federal Republic of Yugoslavia, addressed to the Co-Chairmen of the International Conference on the Former Yugoslavia.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Dragomir DJOKIC
Chargé d'affaires a.i.

Annex

I wish, first of all, to express my satisfaction at our recent meeting in Geneva within the International Conference on the Former Yugoslavia and its successful outcome, to which you made a significant contribution.

According to the practice of an open and sincere exchange of views, I take this opportunity to bring to your attention the serious problem we are facing concerning the Working Group on Succession Issues, owing to the renewed activity of the so-called Badinter Commission.

In this connection, I wish to inform you about the decision of the Government of the Federal Republic of Yugoslavia to withdraw its representatives from and to discontinue, on a temporary basis, its participation in the Working Group on Succession Issues of the International Conference on the Former Yugoslavia pending discontinuation of the work of the so-called Badinter Commission for the reasons which we have indicated on several occasions.

The substantiated reasons underlying the decision of the Federal Republic of Yugoslavia not to accept the competence of the so-called Badinter Commission as a body for settlement of disputes through arbitration have been presented in the statement by the Government of the Federal Republic of Yugoslavia, in my letter addressed to you as well as in our direct talks. First of all, it is a fact that the Commission has not been established in compliance with international law. Furthermore, in its opinions Nos. 1 to 10, the Commission has essentially violated the legal norms of international law, in respect of both procedure as well as the implementation of material law. In practice the opinions of the Commission, as an advisory body of the International Conference on the Former Yugoslavia, on the basis of which the Yugoslav participants at the Conference were to adopt relevant decisions by consensus taking also into account the Commission's opinion, were taken as judgements and served as a basis for making concrete decisions on relevant issues concerning the Yugoslav crisis.

Our side has particularly underlined the fact that the Government of the Federal Republic of Yugoslavia considers unjustifiable and unacceptable resort to any court mechanism, prior to substantiated and comprehensive discussion on the principles on the basis of which the property of the Federal Republic of Yugoslavia should be ceded to successor States.

I would like also to recall that the Government of the Federal Republic of Yugoslavia and its representatives have underlined on several occasions that outstanding and pending questions that may arise in the work of the International Conference on the Former Yugoslavia could be solved, following a substantiated and comprehensive discussion, within a court procedure in accordance with international law.

For all the above reasons, the Government of the Federal Republic of Yugoslavia considers the opinions of the so-called Badinter Commission and the decisions and acts of other subjects based thereupon, null and non-binding for the Federal Republic of Yugoslavia.

Confident that, this time again, you will show understanding, please accept, Excellencies, the assurances of my highest consideration.

Vladislav JOVANOVIC
Deputy Prime Minister and
Minister for Foreign Affairs of the
Federal Republic of Yugoslavia

Enclosure

Statement of 30 April 1993 by the Government of the Federal Republic of Yugoslavia

As stated by the delegation of the Federal Republic of Yugoslavia at the Brussels meeting of the Conference on Yugoslavia and at the London Conference on Yugoslavia, the Federal Republic of Yugoslavia does not recognize the jurisdiction of the Arbitration Commission, known as the Badinter Commission, in the assets and liabilities division procedure and is not agreed that the Commission issue advisory opinions on the principles on the basis of which succession of States would be effected between the Socialist Federal Republic of Yugoslavia, as the predecessor State, on the one hand, and the secessionist former Yugoslav republics, as successor States, on the other.

The Government of the Federal Republic of Yugoslavia also deems unacceptable that the question of principles relevant for the succession procedure be discussed before any body, prior to substantial discussion of these principles within the Succession Group of the Conference on Yugoslavia.

The Government of the Federal Republic of Yugoslavia wishes to recall that in the sense of international law the Arbitration Commission was not established or composed for arbitration purposes, while in its work within the Conference on Yugoslavia so far it has been seriously in breach of both the law of procedure and the implementation of material law.

The Federal Government reiterates the position of the Federal Republic of Yugoslavia presented at the meeting of the Conference on Yugoslavia in Brussels and at the London Conference that all disputes that may arise vis-à-vis the division of assets and liabilities should be referred by agreement either to the Permanent Court of Arbitration in The Hague or to an ad hoc arbitration court.

The Government of the Federal Republic of Yugoslavia considers arbitration proceedings in the settlement of the contentious issues that may arise in the work of the Conference on Yugoslavia as proceedings before a court of law in the sense of general international law and not as proceedings before the Arbitration Commission presided by Mr. Badinter.

We recall in its reply to the letter of Mr. Badinter, President of the Commission, of 3 June 1992, that it considers the opinions of the Commission doctrinary in the sense of article 38 (d) of the Statute of the International Court of Justice, which do not constitute a legal ground for any valid decision. The Federal Republic of Yugoslavia shall consider null and void and non-binding any opinion of the Commission adopted in the procedure to which it has not agreed.